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oulty would be met in indicating in the indictment the "person" whose murder was solicited. Nevertheless an indictment was sustained in *Regina* v. *Banks* (1873) 12 Cox C. C. 393, under sec. 4 of the statute in question, even though the letter of solicitation was intercepted and never read by the prospective mother. The child was later born alive, but that would seem to have been immaterial as the court under the sixth count necessarily held the offence complete upon the posting of the letter while the child was still unborn. Since, in the light of undisputed authority, the court could not have decided that the unborn child was a "person", the court must have gone on the theory that the purpose of the statute was to punish the mere incitement to murder, the word "person" being inserted to eliminate animals and things. As soliciting the murder of a person was already an offence at common law, 1 Wharton, Criminal Law (11th ed.) 278 n., such a construction is possible. Nevertheless, although public policy might demand this result, it is rather a question for the legislature than the courts.

DESCENT AND DISTRIBUTION—PRETERMITTED HEIR—DETERMINATION OF TESTATOR'S INTENT.—Under a Maine statute, Rev. Stat. c. 79, §9, a child unprovided for in its parent's will is accorded the same interest that it would have taken in the event of intestacy, unless it appears that the testamentary omission was intentional, or was not occasioned by mistake, or that the child had received during the testator's lifetime a due proportion of the estate. *Held,* that under the statute evidence extrinsic to the will is admissible to show that such omission was intentional. *Appeal of Ingraham* (Me. 1919) 105 Atl. 812.

The courts of the several states have adopted widely differing constructions of legislation similar to that in the instant case, the divergence being predicated doubtless more on conceptions of policy than on considerations of statutory construction. Thus, under the Rhode Island law, which makes no specific exception of cases where omission is intentional, even an express disinheritance of the child in the will itself will not suffice to defeat its claim to share in the estate; see *Chace* v. *Chace* (1860) 6 R. I. 407; whereas, in Illinois, where the statute provides that the child shall take unless it appears "by such will" that it was the intention of the testator to disinherit it, it has been held that extrinsic evidence is likewise admissible to prove the intention. *Peet* v. *Peet* (1907) 229 Ill. 341, 82 N. E. 376. Medially ranged are the rules of Missouri, California, and Maine and Iowa: the first judicially qualifying a statute similar to that involved in *Chace* v. *Chace, supra,* by excepting cases where the testator specifically excludes the child in his will; see *Wetherall* v. *Harris* (1872) 51 Mo. 65; the second, holding that the evidence of intentional omission must appear in the will itself, to cut off pretermitted heirs; *In re Wardell's Estate* (1881) 57 Cal. 484; and the two states last named championing the rule exemplified in the instant case. *Cf. Perkins* v. *Perkins* (1899) 109 Iowa 216, 80 N. W. 335; *Whittemore*

v. *Russel* (1888) 80 Me. 297, 14 Atl. 197. The courts of Utah and Massachusetts are often cited as favoring the same doctrine, but their espousal of it is based upon the peculiar draftsmanship, and the history, respectively, of the statutes locally applicable. *Wilson* v. *Fosket* (1843) 47 Mass. 400; *Coulam* v. *Douall* (1890) 133 U. S. 216, 10 Sup. Ct. 253. It will be noted that only the Maine and the California rules are diametrically opposed, since other considerations account for the holdings in the other jurisdictions. The California interpretation is defensible in that it refuses to admit, after a testator's decease, a mass of evidence of doubtful value as to his intentions; and places a premium on the sound draftsmanship of wills. The rule of the instant case would appear sounder, however, in that it insures, in the majority of cases, the effectuation of the actual intent of the testator, and construes with the utmost strictness a statute interfering with his right freely to dispose of his property. It is clear that evidence of intention to omit does not contradict, but confirms the will. However, the question is not primarily one of the law of wills, but of statutory interpretation.

DIVORCE—HABITUAL DRUNKENNESS—DRUG ADDICTION.—The plaintiff brought an action for divorce on the statutory ground of habitual drunkenness and introduced evidence to show that the defendant was addicted to the use of drugs which produced effects similar to those caused by the excessive use of intoxicating liquors. *Held,* such proof would not sustain the action. *Smith* v. *Smith* (Del. 1919) 105 Atl. 833.

"Habitual drunkenness" is usually thought of as meaning the habitual use of intoxicating liquors to excess, and is in many jurisdictions a statutory ground for divorce. Bishop, Statutory Crimes (3rd ed.) §§970, 972; 1 Bishop, Marriage, Divorce & Separation §§1781-1785. The courts have consistently interpreted "drunkenness" only in its popular sense, *i. e.,* as intoxication from alcoholic liquor, *Commonwealth* v. *Whitney* (1853) 65 Mass. 477; *Youngs* v. *Youngs* (1889) 130 Ill. 230, 22 N. E. 806; *Ring* v. *Ring* (1901) 112 Ga. 854, 38 S. E. 330, although recognizing that the evil effects of narcotics are similar to those caused by alcohol. *Dawson* v. *Dawson* (1886) 23 Mo. App. 169. Thus the use of drugs by the wife has been held to offer such "indignities" to the husband as to justify a divorce, *Dawson* v. *Dawson, supra,* and it has been intimated that drug addiction would constitute "misconduct which permanently destroys the happiness of the petitioner". See *Barber* v. *Barber* (Conn. 1851) 14 Law Rep. (O. S.) 375. In some states statutes define habitual drunkenness to include addiction to drugs, Md. Code (Bagby, 1911) Art. 16 §56; Colo. Rev. Stat. (1908) c. 42 §2134, and in others, statutes making habitual drunkenness a ground for divorce specifically include the use of narcotics. Mass. Rev. Laws (1902) c. 152 §1; N. D. Comp. Laws (1913) §§4380(3), 4385. The precedents on which the instant case rests seem justifiable only on the grounds of the courts' reluctance to usurp legislative functions, see *Youngs* v.